



City of Austin
Capital Contracting Office
Certificate of Exemption

DATE: December 9, 2016
TO: Rolando Fernandez, Interim
Capital Contracting Officer

DEPT: Watershed Protection
FROM: Ramesh Swaminathan
PHONE: 512-974-3541

Chapter 252 of the Local Government Code requires that municipalities comply with the procedures established for competitive sealed bids or proposals before entering into a contract requiring an expenditure of \$50,000 or more, unless the expenditure falls within an exemption listed in Section 252.022.

This Certification of Exemption is executed and filed with the Capital Contracting Office as follows:

1. The undersigned is authorized to submit this certification.
2. The undersigned certifies that the following exemption is applicable to this purchase. (Please check which exemption you are certifying)

☐ a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality

☒ **a procurement necessary to preserve or protect the public health or safety of municipality's residents**

☐ a procurement necessary because of unforeseen damage to public machinery, equipment, or other property

☐ a procurement for personal, professional, or planning services

☐ a procurement for work that is performed and paid for by the day as the work progresses

☐ a purchase of land or right-of-way

☐ a procurement of items available from only one source, including: items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; gas, water, and other utility services; captive replacement parts or components for equipment; books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits

☐ a purchase of rare books, papers, and other library materials for a public library

☐ paving, drainage, street widening and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special

assessments levied on property that will benefit from the improvements

☐ a public improvement project, already in progress, authorized by voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes as authorized by the voters

☐ payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212

☐ personal property sold: at an auction by a state licensed auctioneer; at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391

☐ services performed by blind or severely disabled persons

☐ goods purchased by a municipality for subsequent retail sale by the municipality

☐ electricity

☐ advertising, other than legal notices

3. The following facts as detailed below support an exemption according to Section 252.022 of the local Government Code for this purchase. Please verify the steps taken to confirm these facts. If you are citing the following exemptions, please provide the additional information requested below. A more detailed explanation of these exemptions is attached.

- **Preserve and Protect the Public Health and Safety** – Describe how this purchase will preserve and protect the public safety of residents.
- **Sole Source** – Describe what patents, copyrights, secret processes, or natural monopolies exist. Attach a letter from vendor supporting the sole source. The letter must be on company letterhead and be signed by an authorized person in company management.
- **Personal Services** – Describe those services to be performed personally by the individual contracted to perform them.
- **Professional Services** – Describe what mainly mental or intellectual rather than physical or manual and/or disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence are required to perform this service.
- **Planning Services** – Describe the services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan, or regional land areas.

4. Please attach any documentation that supports this exemption. (Attached affidavits that contain Law department recommendation for this proposed procurement.)

5. Please provide any evaluation conducted to support the recommendation. Include the efforts taken to ensure the selected vendor is responsible and will provide the best value to the City (Ex: evaluation of other firms, knowledge of market, etc).

The following vendors have been invited to participate in a pre-bid meeting on December 13, 2016

1) Ace Pipe Cleaning, 2) National Power Rodding, 3) Lewis Concrete Restoration/Insituform Technologies, and 4) BRH Garver, 5) Matous Construction

Vendors will be provided with an overall description of the proposed solicitation, timelines, safety requirements and other relevant details of the project. We are asking that the contractors submit their bids to John Beachy, Project Manager on January 3, 2017. The submitted proposals will be evaluated on the following including price and the ability to perform the work during the month of February 2017:

1. Experience (Construction or Maintenance)
 - i. On a tunnel with a diameter greater than 72-inches, or facility greater than 10-million gallons capacity
 - ii. Underground facility with limited access points that require a robust safety plan
 - iii. Live systems including creeks, storm drains, combined sewers, etc.
2. Project Approach including a safety plan

6. Because the above facts and documentation support the requested exemption, the City of Austin intends to award a contract with a duly qualified firm which is yet to be determined for an amount to be determined but expected to range from \$500,000 to \$1,000,000. Council's authorization will be by Ratification.

Recommended
Certification



Ramesh, Swaminathan,

12/9/2016

Date

Approved
Certification/Waivers

(REFER TO ATTACHED WAIVERS)

Department Director or designee

Date

Assistant City Manager /or designee

Date

Chief Financial Officer/or designee

Date

Capital Contracting



Contract Relations Division Manager

12/13/16

Date

Exemption Authorized
(if applicable)

Capital Contracting Officer or designee

12/27/16

Date

**WALLER CREEK TUNNEL PROJECT
HEALTH & SAFETY
PURCHASING AFFIDAVIT**

BEFORE ME, the undersigned authority, personally appeared Joseph G. Pantalione, who being by me first duly sworn, upon oath deposed and stated: "My name is Joseph G. Pantalione. I am the Director of the City of Austin's Watershed Protection Department. I am over eighteen (18) years of age and I have personal knowledge of the facts set forth below and am competent and authorized to make this affidavit.

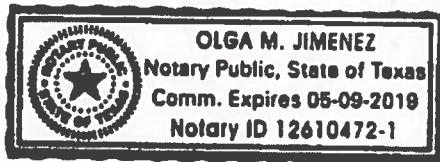
The City of Austin's Watershed Protection Department manages the City's Flood Control Program, (the "Program"). The City, through the Program, provides essential flood control services for the citizens of the City of Austin. In doing so, the City is responsible for the health, safety and security of hundreds of thousands of citizens of the City.

The City is currently in the process of completing the Waller Creek Tunnel Project ("WCT Project"), which consists of the Waller Creek Tunnel, the Inlet at Waterloo Park, the 8th Street Inlet, and the Outlet at Lady Bird Lake component projects. Watershed Protection has planned to dewater the Tunnel in early February of 2017 in order to inspect the condition of the Tunnel, remove accumulated sediment, and perform additional testing (the "Dewatering Project"). The timing for the Dewatering Project work is critical for the commissioning, completion, and acceptance of the Waller Creek Tunnel Project due to the pending completion of the component projects and the limited windows of seasonal dry weather in Central Texas.

The City must obtain survey information during the Dewatering Project to support the FEMA Letter of Map Revision ("LOMR") process. This information is necessary in order to modify the floodplain maps and allow development in the current Waller Creek floodplain as contemplated by the WCT Project concept and the Waller Creek Tax Increment Financing District Plan. The failure to capture that data in February 2017 would impact the LOMR process and delay the issuance of amended FEMA floodplain maps.

The next available period of dry seasonal weather is in February 2017. The Capital Contracting Office issued a request for proposals for a multi-year scope of the work in question and failed to receive any proposals. Nonetheless, due to the schedules of the contractors and the state of the completion of the work, the Dewatering Project must be performed in February 2017 in order to coordinate the completion of the WCT Project, the performance of related inspection, testing, and surveying work, and the ultimate transition to City maintenance.

Given under my hand and seal of office on the 8 day of December, 2016.



Olga M. Jimenez
NOTARY PUBLIC, STATE OF TEXAS

OLGA M. JIMENEZ
Printed Name of Notary
My Commission Expires: _____

**WALLER CREEK TUNNEL PROJECT
HEALTH & SAFETY
PURCHASING AFFIDAVIT**

BEFORE ME, the undersigned authority, personally appeared Robert Hinojosa, who being by me first duly sworn, upon oath deposed and stated: "My name is Robert Hinojosa. I am the Interim Director of the City of Austin's Public Works Department. I am over eighteen (18) years of age and I have personal knowledge of the facts set forth below and am competent and authorized to make this affidavit.

The City of Austin's Public Works Department manages the City's public works construction program, (the "Program"). The City, through the Program, provides essential public works construction services for the citizens of the City of Austin. In doing so, the City is responsible for the construction of public infrastructure projects that support the health, safety and security of hundreds of thousands of citizens of the City.

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Given under my hand and seal of office on the 8th day of December, 2016.



Delia Lara-Uballe
NOTARY PUBLIC, STATE OF TEXAS

Delia Lara-Uballe
Printed Name of Notary

My Commission Expires: May 7, 2017